

603 KAR 3:051. Recyclers.

RELATES TO: KRS 177.905-177.950

STATUTORY AUTHORITY: KRS 177.935

NECESSITY, FUNCTION, AND CONFORMITY: KRS 177.935 authorizes the Department of Highways to exercise general supervision of the administration and enforcement of KRS 177.905 to 177.950. This administrative regulation pertaining to the operation of automobile, vehicle, machinery or material recycling establishments has been adopted to enable the Transportation Cabinet's Department of Highways to administer and enforce the recycler program requirements.

Section 1. Definitions. (1) "Automobile, vehicle or machinery recycler" shall have the same meaning as KRS 177.905(2).

(2) "Material recycler" shall have the same meaning as KRS 177.905(4) except any containers, such as trash dumpsters, which are maintained, operated or used for storing or keeping garbage, trash and other waste material are excluded.

(3) "Operator or operators" shall have the same meaning as KRS 177.905(5).

(4) "Person" shall have the same meaning as KRS 177.905(6).

(5) "Recycling establishment" or "place of business" means any place operated, maintained or allowed to exist by any automobile, vehicle or machinery recycler or any material recycler.

(6) "Road" shall have the same meaning as KRS 177.905(1).

(7) "Business" shall have the same meaning as KRS 177.905(3).

Section 2. General Provisions. (1) No junked, wrecked or inoperable automobiles, vehicles, machinery or material scrap or parts shall be placed, deposited or otherwise located on the right-of-way of any road.

(2) Every recycling establishment or place of business shall be completely hidden from view of the traveling motorist, for 1,000 feet in each direction from the outer limits of the premises or storage area, and to a depth of 1,000 feet from the right-of-way line, along all roads.

(3) Any recycling establishment or place of business required by KRS 177.910 to obtain a permit which cannot as a practical matter be screened from view of the traveling motorist on all roads shall not be issued a permit and shall be removed.

(4) If an operator begins a recycling establishment or place of business in a new location, the location shall be screened to comply with provisions of this administrative regulation and the operator shall have applied for and obtained a current permit prior to its operation.

Section 3. Measurements. (1) In determining the 1,000 feet control distance from the right-of-way required by KRS 177.910, the measurements shall be taken horizontally along a line at the same elevation and at a right angle to the center line of the highway.

(2) In measuring the 1,000 feet from the outer limits of the premises or storage area, in each direction, on all roads, two (2) lines shall be drawn perpendicular to the center line of the main traveled way of the road, so as to cause the two (2) lines to embrace the greatest longitude along the center line of the main traveled way of the road.

Section 4. Standards for Screening. (1) Completed screening shall completely hide all junked, wrecked, or inoperable automobiles, vehicles, machinery, and materials from view of the traveling public on all roads on a year-round basis.

(2) Materials for screening shall present an attractive appearance. No wrinkled or bent metal shall be accepted.

(3) The completed screening shall present a neat and clean appearance.

(4) The piecing together of metal or wood panels or other patchwork type screening shall not be accepted.

(5) Unless a continuous overall neat design is created, all metal or wood panels shall be erected vertically.

(6) Fencing used for screening shall be of uniform height and alignment unless a variation is applied for and approved by the Department of Highways.

(7) Completed screening shall blend with the surrounding area as much as possible.

(8) If fencing materials must be painted in order to blend with the surrounding area, the colors and shades of buildings and other structures in the area may be taken into account in determining the color and shade to be used on such fencing materials.

(9) If a building or other structure is to be used as a portion of the screening, the building or structure may be required by the Department of Highways to be painted in order to blend with the other portions of screening and the surrounding area.

(10) If screening is to be effected by the use of plantings of trees or shrubs, the plantings to be used shall be of sufficient height and density at planting to screen the recycling establishment or place of business from view of the traveling motorists on a year-round basis on all roads where control is exercised.

(11) Any operator of a recycling establishment or place of business shall file with his application for a permit a plat detailing the area to be used for the storing or keeping of recycling material, automobiles, vehicles or machinery, the location, height, length, kind of material to be used for screening and color of paint if required.

(12) Approval of a screening proposal shall be obtained from the Department of Highways prior to the erection of fencing or the planting of trees or shrubs to effect the screening required to hide the storage area from view of the traveling public. Failure to obtain such approval in advance may result in the necessity of removing and reerecting part or all screening in order to comply with standards for screening as set forth in this section.

Section 5. Requirements for Permit and Fee. (1) An application for a permit required by KRS 177.910 for the operation of a recycling establishment or place of business shall be made on forms prescribed and furnished by the Department of Highways.

(2) The completed application form shall be filed with the Highway District Office serving the county in which the proposed business lies. Permits shall be issued in the following manner:

(a) Permits shall be issued for a two (2) year period, or portion thereof, beginning on July 1 of even numbered years.

(b) Any recycling establishment or place of business existing or in operation on July 1 of an even numbered year shall remit the full permit fee regardless of the date of compliance with Kentucky law and administrative regulations.

(c) Any new recycling establishment or place of business which comes into existence after July 1 of an even numbered year shall remit a permit fee on a prorated basis based on the beginning date of the operation regardless of the date of compliance with Kentucky law and administrative regulations.

(d) Even though the permit fee set by KRS 177.920 is fifty (50) dollars for a two (2) year period if a new business begins operation the permit fee shall be two (2) dollars and eight (8) cents per month for each month remaining in the two (2) year period.

(e) Permit fees paid in the form of a check or money order shall be made payable to the "Treasurer, Commonwealth of Kentucky."

(f) Permit fees shall not be accepted by the Department of Highways until the recycling establishment or place of business is in full compliance with Kentucky law and administrative regulations at which time the applicant shall be billed.

Section 6. Revocation of Permits. (1) Failure to comply with Kentucky law and administrative regulations shall be cause for the revocation of a permit.

(2) If a recycling establishment or place of business is found to not be in compliance, a reasonable time period may be allowed for the operator to comply with Kentucky law and administrative regulations.

Section 7. Appeal of Permit Revocation. (1) Any business or person aggrieved by an action taken by the Department of Highways in administering this administrative regulation or the referenced Kentucky Revised Statutes may request a formal hearing. The request for the hearing shall be filed in writing with the Commissioner, Department of Highways and shall set forth the nature of the complaint and the grounds for the appeal.

(2) Within sixty (60) days of receipt of the hearing request, the Department of Highways shall notify the complainant of the date, time, and location of the hearing.

(3) At the time and place set for the hearing, the complainant may present any evidence relevant to the disposition of his complaint.

(4) Within thirty (30) days after the hearing an order on the complaint shall be issued by the Commissioner of the Department of Highways. A copy shall immediately be mailed to the complainant. (5 Ky.R. 565; 6 Ky.R. 51; eff. 7-17-1979; 11 Ky.R. 450; eff. 10-9-1984; 15 Ky.R. 544; eff. 10-4-1988; Crt eff. 3-18-2019; Crt eff. 4-1-2019.)